The Private Fisheries Protection Act, 1889

Act 2 of 1889

Keyword(s):
Fish, Fixed Engine, Private Water, Navigable River
Bengal Act II of 1889

[THE PRIVATE FISHERIES PROTECTION ACT, 1889.]

Supplemented Act IV of 1897.
Ben. Act I of 1939.

[26th June, 1889.]

An Act for the protection of the right of fishing in private waters.

WHEREAS it is expedient to provide for the protection of private rights of fishery;

It is hereby enacted as follows:—

1. This Act may be called the Private Fisheries Protection Act, 1889.

2. In this Act,—

"fish" includes shell-fish and turtles;

"fixed engine" means any net, cage, trap or other contrivance for taking fish fixed in the soil or made stationary in any other way;

"private waters" means waters—
(a) which are the exclusive property of any person; or
(b) in which any person has an exclusive right of fishery,

"navigable river" includes a river which is navigable only during certain periods of the year.

3. Any person who—
(a) fishes in any private waters, not having a right to fish therein,
(b) erects, places, maintains or uses any fixed engine in private waters, or puts, [or causes to be put therein any matter or thing] for the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein belongs;

shall be guilty of an offence, and shall be punished for a first offence with a fine not exceeding fifty rupees;

and for a subsequent offence with imprisonment which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both:

1Legislative Papers.—For Statement of Objects and Reasons, see the Calcutta Gazette of 1889, Pt. IV, page 6; for Report of Select Committee, see ibid, page 32; and for Proceedings in Council, see ibid, Supplement, pages 658, 714, 947 and 960.
Local Extent.—Since this Act contains on local extent clause, it must be taken to extend to the whole of the former Province of Bengal.

The words "and in which fish are not confined but have means of ingress or egress" were omitted by s. 2(1) of the Private Fisheries Protection (Amendment) Act, 1959 (West Ben. Act XXI of 1959).

This definition was added by s. 2(2), ibid.
Substituted for the words "or knowingly permits to be put therein any matter" by s. 3, ibid.
The Private Fisheries Protection Act, 1889.

[Ben. Act II of 1889.]

(Sections 4-6.)

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a bona fide claim or right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river.

4. (1) Any fixed engine erected, placed, maintained or used for any matter or thing put or caused to be put in contravention of the last preceding section may be forfeited to the State Government or otherwise disposed of, and any fish taken by means of such engine, or otherwise in contravention of this Act, shall be sold and the sale proceeds shall be paid to the person to whom the right of fishery in the private waters belongs, under orders of the Court trying any offence for such contravention.

(2) And such fixed engine or any fish taken by means thereof may be removed or taken possession of by any Fishery Officer not below the rank of an Assistant Fishery Officer, or by the Magistrate of the district, or such person as be empowers in this behalf.

5. Whoever enters upon private waters or upon land in possession of any person mining upon such waters with intent to commit any of the offences specified in section 3, shall be punished with a fine not exceeding fifty rupees.

6. Offences committed under this Act shall be considered to be "cognizable offences" as defined in the Code of Criminal Procedure, 1898.

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\(^1\) Inserted by sec. 4(1)(d) of the Private Fisheries Prevention (Amendment) Act, 1959 (West Bengal Act XXI of 1959).

\(^2\) Inserted by s. 4(1)(d)(ii), ibid.

\(^3\) Repealed for the word "shall be forfeited" by s. 4(1)(d)(ii), ibid.

\(^4\) Inserted by s. 4(1)(d)(ii), ibid.

\(^5\) Inserted by s. (4)(2)(d), ibid.

\(^6\) Repealed for the words "enters upon land in the possession of another or upon private waters" by s. 5, ibid.

\(^7\) This figure was inserted by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (West Bengal Act 1 of 1938).